

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

---

<b>KATHY HOWELL,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>No. 12-2059-STA-tmp</b>
	)	
<b>SMITH &amp; NEPHEW,</b>	)	
	)	
<b>Defendant.</b>	)	

---

**ORDER ADOPTING MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION**

---

Before the Court is Defendant Smith & Nephew’s Motion to Dismiss (D.E. # 46) filed on April 8, 2013, and the United States Magistrate Judge’ Report and Recommendation that Defendant’s Motion to Dismiss be granted (D.E. # 50) filed on June 7, 2013. A bench trial in this matter is currently set for September 30, 2013.

Defendant seeks dismissal of Plaintiff’s complaint under Rule 37(b)(2)(A) as a discovery sanction. According to the Motion to Dismiss, Plaintiff has failed to respond to Defendant’s discovery requests, even after the Magistrate Judge’s granted Defendant’s motion to compel Plaintiff to submit discovery responses. Not only did Plaintiff fail to comply with the Magistrate Judge’s order, Plaintiff also failed to file a response to Defendant’s Motion to Dismiss within the time permitted. Thereafter, the Magistrate Judge entered a show cause order, directing Plaintiff to file a response to the Motion within fourteen (14) days. The Magistrate Judge specifically warned Plaintiff that her failure to respond would result in a recommendation to the Court that Plaintiff’s case be

dismissed. To date Plaintiff has not responded to the show cause order. The Magistrate Judge issued his Report and Recommendation that Defendant's Motion to Dismiss be granted.

Pursuant to Rule 72(b)(2) and 28 U.S.C. § 636(b)(1)(C), objections to the Magistrate Judge's Report and Recommendation were due within fourteen (14) days of service of the Report, making the objections due no later than June 24, 2013.<sup>1</sup> Neither party has filed objections within the time permitted. Having reviewed the Magistrate Judge's Report and Recommendation *de novo*, the parties' briefs, and the entire record of the proceeding, the Court hereby **ADOPTS** the Magistrate Judge's Report. Defendant's Motion to Dismiss is **GRANTED**, and Plaintiff's complaint is dismissed with prejudice.

**IT IS SO ORDERED.**

**s/ S. Thomas Anderson**  
S. THOMAS ANDERSON  
UNITED STATES DISTRICT JUDGE

Date: July 25, 2013.

---

<sup>1</sup> The parties receive the benefit of three additional days under Rule 6(d) of the Federal Rules of Civil Procedure. *See* Fed. R. Civ. P. 6(d).